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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,509	08/05/2003	Keng Yu Shih	W-9459-02	5197

7590 10/20/2006

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EXAMINER

SAMPLE, DAVID R

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,509

Applicant(s)

SHIH, KENG YU

Examiner

David Sample

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-168 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-168 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Any rejections and/or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

Claims are objected to because of the following informalities:

In the following instances, "L□" is inserted where L' should be:

Claim 72, step (iii);

Claim 73, step (iii);

Claim 74, line 2;

Claim 134, step (iii);

Claim 135, step (iii); and

Claim 136, line 2.

In claim 113, line 3, "0□ to 50□C" is written rather than "0° to 50°C".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

Claims 71, 73-77, 79-80, 82-84, 86-89, 91-93, 95-105, 107-108, 110-115, 117-118, 120-126, 128-129, 131-133, 135-139, 141-142, 144-146, 148-151, 153-155, 157-167 are rejected under 35 U.S.C. 102(e) as being anticipated by Bennett (US 5,955,555).

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Bennett discloses a catalyst composition for polymerization of olefins comprising an aluminum compound (col. 7, l. 22-25, 41-44), inorganic oxide (silica or alumina - claim 45 - col. 38, l. 31-32), and precatalyst (Co or Fe tridentate imine metallocycle and two anions) present in the amounts claimed and method of making said catalyst (Examples 1-61, col. 13, l. 35 - col. 29, l. 67; see especially Ex. 43-46). The inorganic oxide of the reference is the same as the claimed inorganic oxide. If the inorganic oxide is the same, the properties must be the same. Therefore, the claimed surface hydroxyl content of the inorganic oxide is presumed to be inherent to the reference. See MPEP 2112.

Claims 71-72, 74-78, 80-81, 83-85, 87-90, 92-94, 96-134, 136-140, 142-143, 145-147, 149-152, 154-156, 158-162, 164-167 are rejected under 35 U.S.C. 102(e) as being anticipated by Mackenzie, et al. (US 6,303,720 B1).

Mackenzie, et al. disclose a catalyst composition for polymerization of olefins comprising an aluminum compound (col. 5, l. 37-45; col. 8, l. 39-52; col. 34, l. 55-60), inorganic oxide (silica - gas phase synthesis - col. 76, l. 55 - col. 77, l. 8), and precatalyst (Group 8-10 transition metal which includes Fe - bidentate imine metallocycle and two anions - col. 3, l. 38- col. 4, l. 19) present in the amounts claimed and method of making said catalyst (Examples 1-190 - col. 38, l. 5 - col. 87, l. 6). The inorganic oxide of the reference is the same as the claimed inorganic oxide. If the inorganic oxide is the same, the properties must be the same. Therefore, the claimed surface hydroxyl content of the inorganic oxide is presumed to be inherent to the reference. See MPEP 2112.

Claims 71-72, 74-78, 80-81, 83-85, 87-90, 92-94, 96-134, 136-140, 142-143, 145-147, 149-152, 154-156, 158-162, 164-167 are rejected under 35 U.S.C. 102(e) as being anticipated by Ponasik, Jr et al. (US 6,365,539 B1).

Ponasik, Jr et al. disclose a catalyst composition for polymerization of olefins comprising an aluminum compound (col. 4, I. 58-64; col. 8, I. 60-65), inorganic oxide (silica - col. 8, I. 66 - col. 9, I. 23), and precatalyst (Group 8-10 transition metal which includes Fe - bidentate imine metallocycle and two anions - col. 3, I. 26 - col. 4, I. 57; col. 9, I. 25-55) present in the amounts claimed and method of making said catalyst (Examples 1-26 - col. 11, I. 6 - col. 19, I. 9). The inorganic oxide of the reference is the same as the claimed inorganic oxide. If the inorganic oxide is the same, the properties must be the same. Therefore, the claimed surface hydroxyl content of the inorganic oxide is presumed to be inherent to the reference. See MPEP 2112.

Response to Arguments

Applicant's arguments filed July 26, 2006 have been fully considered but they are not persuasive.

Applicants argue that the applied prior art disclose supports that do not inherently possess the claimed concentration of hydroxyl groups on the surface of the oxide. This argument is not deemed persuasive. The applied prior art discloses employing silica or alumina as the inorganic oxide which is the same as the claimed inorganic oxide. If the inorganic oxide is the same, the properties of the oxide must also be the same. Once a product is found by the examiner that appears to the same as the prior art, burden shifts to applicant to show the asserted inherent characteristic is in fact not inherent. See MPEP 2112 V.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

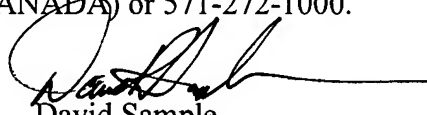
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Sample
Primary Examiner
Art Unit 1755